

## **REMARKS**

Applicants respectfully request consideration of the subject application.

Claims 1-44 are pending. Claims 1-3, 10-12, 14-16, 23-25, 27-29, and 34-36 have been rejected. Claims 38-44 have been allowed.

Claims 14-26 have been currently amended.

## **Specification**

The Office Action has objected to the specification because of the following informalities on page 17, paragraph [0043]:

A machine-readable medium includes any mechanism for storing or transmitting information in a form readable by a machine (e.g. a computer). For example, a machine readable medium includes read-only memory (ROM), random access memory (RAM), magnetic disk storage media, optical storage media, flash memory devices, electrical, optical, acoustical or other forms of propagated signals (e.g. carrier waves, infrared signals, digital signals, etc.).

The Office action indicates that the recitation: "electrical, optical. (e.g. carrier waves, infrared signals, digital signals, etc.)." is direct to carrier wave signals, which is non-statutory subject matter. A machine readable medium according to paragraph [0043] includes carrier waves as an example of a propagated signal.

Claims 14-26 have been amended by replacing the phrase "machine-readable medium" with the phrase "computer readable medium." Support for the phrase "computer readable medium" can be found throughout the specification including paragraph [0044]. Applicant respectfully requests removal of the objection to the specification in view of the amendments to claims 14-26.

## Claim Rejections - 35 USC § 102

Claims 1-3, 10-12, 14-16, 23-25, 27-29, and 34-36 have been rejected under 35 U.S.C. 102(e) as being unpatentable in view of U.S. Patent Publication No. 2005/0111561 of Sedarat et al. ("Sedarat").

Independent claim 1 reads as follows.

A method comprising:

measuring phase noise in a signal, the phase noise due to a sampling-time phase mismatch between a transmitter device and a receiver device; determining a Gaussian noise power level in the signal; calculating a gain factor associated with the phase noise; and applying the gain factor to the Gaussian noise power level to calculate an equivalent noise power.

Independent claim 1 relates to measuring phase noise in a signal with the phase noise being due to a sampling-time phase mismatch between a transmitter device and a receiver device.

The Office Action indicates that Sedarat discloses measuring phase noise in a signal, the phase noise due to a sampling-time phase mismatch between a transmitter device and a receiver device (512 in Fig. 5; [0052]); determining a Gaussian noise power level in the signal (514 in Fig. 5); and calculating a gain factor associated with the phase noise (518 in Fig. 5). (Office Action, 09/19/07, page 3). Applicant respectfully disagrees with this characterization of the cited reference.

Sedarat discloses a method, system and apparatus for reliable multicarrier communication in the presence of periodic impulsive interference is disclosed. A power level of noise in a signal is determined. An impulse noise in the signal is detected. A gain factor associated with the impulse noise is determined and applied to the noise power of the signal to calculate an equivalent noise power. (Sedarat, Abstract).

Periodic impulsive interference can be created by an AC power line. Electric motors and light dimmer switches are examples of such interfering sources. (Sedarat, Background). Figure 5 includes an impulse noise detector 512 that detects whether an impulse noise source is present in the sub-carrier signal. If impulse noise is detected in the sub-carrier, detector 512 determines a gain factor G<sub>I</sub> 518 associated with the impulse noise. Thus, Sedarat relates to the detection of impulse noise, not phase noise as purported by the Examiner. Impulse noise is caused by different sources (e.g., electric motors and light dimmer switches) and has different characteristics compared to phase noise.

Sedarat does not disclose “measuring phase noise in a signal, the phase noise due to a sampling-time phase mismatch between a transmitter device and a receiver device” and “calculating a gain factor associated with the phase noise” as recited in claim 1. Therefore, claim 1 is not anticipated by Sedarat under 35 U.S.C. § 102(e).

Independent claims 14 and 27 contain similar limitations but not identical compared to the limitations of claim 1. For similar reasons, independent claims 14 and 27 are not anticipated under 35 U.S.C. § 102(e) in view of Sedarat.

It is submitted that dependent claims 1-3, 10-12, 15, 16, 23-25, 28, 29, and 34-36 are not anticipated by Sedarat under 35 U.S.C. § 102(e) given that claims 1-3, 10-12, 15, 16, 23-25, 28, 29, and 34-36 depend from and include the limitations of one of the corresponding independent claims 1, 14, and 27.

#### **Allowable Subject Matter**

Claims 4-9, 13, 17-22, 26, 30-33, and 37 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in

independent form including all of the limitations of the base claim and any intervening claims.

It is submitted that dependent claims 4-9, 13, 17-22, 26, 30-33, and 37 are not anticipated by Sedarat under 35 U.S.C. § 102(e) given that claims 4-9, 13, 17-22, 26, 30-33, and 37 depend from and include the limitations of one of the corresponding independent claims 1, 14, and 27, noted above.

Applicant thanks the Examiner for the allowance of claims 38-44.

#### **Double Patenting**

Claims 1-3, 14-16, and 27-29 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 13-15, 28-30, and 43-45 of U.S. Application No.10/721,445.

Applicants have filed herewith a terminal disclaimer for this patent application (No. 10/773,054) in compliance with 37 C.F.R. 1.321(c). This patent application is commonly owned with co-pending Application No. 10/721,445. It is submitted that the terminal disclaimer filed herewith overcomes the provisional rejections stated above for claims 1-3, 14-16, and 27-29.

### **Conclusion**

It is respectfully submitted that in view of the amendments and remarks set forth herein, the rejections and objections have been overcome. An Information Disclosure Statement is also submitted with this amendment. Applicants reserve all rights with respect to the application of the doctrine equivalents. If there are any additional charges, please charge them to our Deposit Account No. 02-2666. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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